



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

HARVARD  
LAW REVIEW

VOL. XXVIII

1914—1915

CAMBRIDGE, MASS.  
THE HARVARD LAW REVIEW ASSOCIATION  
1915

*Copyright, 1914, 1915,*  
BY THE HARVARD LAW REVIEW ASSOCIATION

THE UNIVERSITY PRESS, CAMBRIDGE, U.S.A.

# TABLE OF CONTENTS

## ARTICLES

	PAGE
BUSINESS JURISPRUDENCE. <i>Edward A. Adler</i> . . . . .	135
COMITY IN THE FEDERAL COURTS. <i>Arthur March Brown</i> . . . . .	589
CONSTITUTIONAL RIGHT TO KEEP AND BEAR ARMS, THE. <i>Lucilius A. Emery</i> . . . . .	473
CONSTRUCTIVE TRUSTS, BASED ON PROMISES MADE TO SECURE BEQUESTS, DE- VISES, OR INTESTATE SUCCESSION. <i>George P. Costigan, Jr.</i> . . . . .	237, 366
CONTRACTUAL LIMITATION OF LIABILITY FOR NEGLIGENCE. <i>Emlin McClain</i> . . . . .	550
DOES A PARDON BLOT OUT GUILT? <i>Samuel Williston</i> . . . . .	647
EFFECT OF WAR ON THE OPERATION OF STATUTES OF LIMITATION, THE. <i>Charles Noble Gregory</i> . . . . .	673
EX PARTE DIVORCE. <i>Robert James Peaslee</i> . . . . .	457
FEDERAL "ANTI-TRUST LAWS" ON COMMERCE IN PATENTED AND COPYRIGHTED ARTICLES, THE EFFECT OF THE. <i>Amos J. Peaslee</i> . . . . .	394
FEDERAL DISPOSITION OF STATE WATERS IN THE PRIORITY STATES, THE QUES- TION OF. <i>L. Ward Bannister</i> . . . . .	270
FEDERAL EMPLOYERS' LIABILITY ACT. <i>Edward P. Buford</i> . . . . .	163
FEDERAL REGULATION OF INTRASTATE RATES, THE EVOLUTION OF: THE SHREVEPORT RATE CASES. <i>William C. Coleman</i> . . . . .	34
FEDERAL REGULATION OF INTRASTATE RATES AND THE SHREVEPORT RATE CASES, ANOTHER WORD ABOUT THE EVOLUTION OF. <i>John S. Sheppard, Jr.</i> . . . .	294
JUDICIAL REVIEW OF LEGISLATION IN CANADA. <i>Charles G. Haines</i> . . . . .	565
INTERESTS OF PERSONALITY. <i>Roscoe Pound</i> . . . . .	343, 445
JOHN CHIPMAN GRAY. <i>Ezra Ripley Thayer. Samuel Williston. Joseph H. Beale</i> . . . .	539
LEGAL SCIENCE, THE TERMINOLOGY OF (WITH A PLEA FOR THE SCIENCE OF NOMO-THEICS). <i>John H. Wigmore</i> . . . . .	I
LIABILITIES INCURRED IN THE ADMINISTRATION OF TRUSTS. <i>Austin W. Scott</i> . . . . .	725
MUTUALITY AND CONSIDERATION. <i>Henry Winthrop Ballantine</i> . . . . .	121
PROXIMATE CONSEQUENCES IN THE LAW OF TORTS. <i>Henry T. Terry</i> . . . . .	10
REMOTENESS OF GENERAL POWERS. <i>J. L. Thorndike</i> . . . . .	664
SEPARATION OF INTERSTATE AND INTRASTATE ACCOUNTS IN FEDERAL AND STATE REGULATION OF RATES. <i>Bruce Wyman</i> . . . . .	742
STATE LEGISLATION UNDER THE WEBB-KENYON ACT. <i>Lindsay Rogers</i> . . . . .	225
THE UNIFORM PARTNERSHIP ACT — A CRITICISM. <i>Judson A. Crane</i> . . . . .	762
WAYS AND WATERS IN MASSACHUSETTS. <i>Edwin H. Abbott, Jr.</i> . . . . .	478

# INDEX-DIGEST

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## A

### ABATEMENT AND REVIVAL.

**Survival of action:** Breach of promise of marriage: special damages.

701

### ABUTTING OWNERS.

See under *Easements; Eminent Domain; Highways; Nuisance; Restrictions and Restrictive Agreements as to Use of Property; Waters and Watercourses.*

### ACCIDENT.

See *Insurance; Torts.*

### ACCOMMODATION PAPER.

See under *Bills and Notes.*

### ACCRETION.

See also *Waters and Watercourses.*

Right of riparian owner to artificial extensions of his bank.

702

### ACQUIESCENCE FOR DETECTION

See under *Criminal Law.*

### ACTIONS.

See *Limitation of Action; Trover and Conversion.*

### ACTS OF BANKRUPTCY.

See under *Bankruptcy.*

### ADJOINING LANDOWNERS.

See under *Easements; Nuisance; Restrictions and Restrictive Agreements as to Use of Property; Waters and Watercourses.*

### ADMINISTRATION.

Of estates, see *Descent and Distribution; Executors and Administrators; Legacies and Devises; Powers; Wills.*

### ADMINISTRATIVE LAW.

See *Constitutional Law.*

Essentials of hearing before administrative board acting judicially.

808

### ADMIRALTY.

**Jurisdiction:** Aeroplane fallen in navigable waters.

200, 203

### ADMISSIONS.

See under *Evidence.*

### AGENCY.

See also *Master and Servant.*

Particular classes of agents: see *Attorneys; Banks and Banking; Carriers; Corporations; Municipal Corporations.*

**Nature and incidents of the relation:** Father's liability for son's use of family automobile.

91, 100

Sale by agent to himself.

623

**Principal's liability to third persons in tort:** Bailee: liability for wilful misconduct of servant.

101

**Principal's liability for acts of independent contractor:** Liability for explosives.

100

### ALIENS.

Status of alien enemies in courts of belligerent.

312, 317

### ALTERATION OF INSTRUMENTS.

See under *Bills and Notes.*

### ANIMALS.

**Damage to persons and chattels by animals:** Injury to young child in consequence of negligence of custodian.

513

### ANOMALOUS INDORSER.

See under *Bills and Notes.*

### APPEAL AND ERROR.

See also *Criminal Law; New Trial.*

**Determination and disposition of cause:** Reversal of judgment although no assignment of error upheld by majority of court.

424

### APPOINTMENT, POWER OF.

See under *Powers.*

### ASSAULT AND BATTERY.

See also *Criminal Law.*

**Civil liability:** Defenses: consent of victim of statutory rape.

100

### ASSIGNMENTS FOR CREDITORS.

See *Bankruptcy.*

### ATTEMPT.

See *Criminal Law.*

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**ATTORNEYS.**

**Relation between attorney and client:** Measure of damages for discharge without cause. 101

Negligent misrepresentation as to security. 525

**AUTOMOBILES.**

See *Negligence; Torts.*

**B****BAGGAGE.**

See under *Carriers.*

**BAILMENTS.**

See also *Carriers; Pledges; Trover and Conversion; Warehousemen.*

**Bailor and bailee:** Liability of infant bailee for conversion. 521  
Liability of bailee for wilful misconduct of servant. 101

**BANKRUPTCY.**

See also *Landlord and Tenant; Limitation of Action; Pledges.*

**State bankruptcy and insolvency laws:** Effect of general assignment under state laws. 516

**Bankruptcy Act of 1898 and amendments:**

1 a (19).	515
3 a (2).	204
3 a (3).	703
5 a, c, h.	515
11 (1910).	204, 210
13 b (1903).	204
14	318
18 g.	318
47 a (2) (1910).	204, 318
57 i.	702
60 b (1903) (1910).	204
60 c.	317
64 b (5).	703
67 f.	703
70 e.	703
70 f.	318

**Discharge:** Effect of discharge on sureties, contingent claim to indemnity. 702

**Fraudulent conveyances:** Insurance on property fraudulently conveyed. 514

Voluntary settlements under English bankruptcy statute. 514

**Liens, dissolution of:** Lien acquired within four months on property fraudulently conveyed. 703

Preservation of liens given in good faith for present consideration. 204

Validity of pledge redelivered to pledgor as agent. 211

**Partnership cases:** Effect of discharge of firm on liability of non-bankrupt partners. 515

**Preferences:** Effect of re-transfer to debtor before petition. 317

Intent of debtor: importance of motive under Irish Act. 203

Necessity of intent to prefer under national bankruptcy act: effect of amendment of 1910. 204

**Procedure and practice:** Dismissal of voluntary proceedings by consent after adjudication. 318

Power to enjoin suits in other courts and effect on running of statute of limitations. 210

**Property passing to trustee:** Effect of 1910 amendment in states where dower is chattel for payment of husband's debts. 318

Rights of action arising upon contract: effect of amendment 1910. 204

**BANKS AND BANKING.**

See also *Trusts.*

Forged instruments, see under *Bills and Notes.*

**Deposits:** Duty of depositor to notify bank of forged indorsement. 319

**Collections:** Liability for negligence of correspondent bank. 205

Nature of liability of depositary bank. 205

Liability of collecting bank in garnishment proceedings. 623

**BELLIGERENCY.**

See *War.*

**BILLS AND NOTES.**

See also, *Banks and Banking; Conflict of Laws.*

**Negotiable Instruments Law:**

5.	808
27.	103
52.	103
55.	424
57.	424
58.	624
119.	102, 624
120.	102, 624
121.	102
192.	102, 624
196.	102

**Formal requisites:** Provision to apply collateral security to any indebtedness to the holder. 808

**Anomalous indorser:** Rights of

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

anomalous indorser who has paid holder in due course. 102  
**Purchasers for value without notice:** Purchaser with notice from an innocent pledgee. 103  
**Payment and discharge:** *Moratorium*: accommodation acceptor not bound to invoke it for benefit of accommodated party. 407  
**Defenses:** Extension of time to principal joint-maker as defense to surety. 102  
 Release of security by payee without assent of surety co-maker: Negotiable Instruments Law. 624  
**Checks:** Duty of depositor to notify bank of forged indorsement. 319  
*Gifts causa mortis*: gift of donor's own check. 325

Negligence of drawer: negligent use of protectograph. 624  
**Statutes:** Negotiable Instruments Law: effect on statute making usurious notes void. 424  
**BILLS OF LADING.**  
 See under *Carriers*; *Sales*.  
**BONDS.**  
 See also *Constitutional Law*; *Suretyship*; *Taxation*.  
**Negligent reissue by obligor under forged indorsement:** Rights of *bonâ fide* purchaser. 625  
**BREACH OF MARRIAGE PROMISE.**  
 Survival of action: special damages. 701  
**BRIBERY.**  
 See *Criminal Law*.

## C

**CAPTURE.**

See *War*.

**CARRIERS.**

See also *Illegal Contracts*; *Interstate Commerce*; *Public Service Companies*; *Railroads*; *Restraint of Trade*; *Street Railways*.

**Federal regulation:** Power of Interstate Commerce Commission to regulate intrastate rates. 34-81, 113

Regulation of interstate pipe lines not professing public carriage. 84, 104

The Federal Employers' Liability Act. 163-185

The Five Per Cent Rate Cases. 97, 413

**Duty to transport and deliver:**

Right of consignor to sue. 517

**Discrimination and overcharge:**

Mistake: liability for quoting published rate no longer applicable because of change in name of station. 516

**Limitation of liability:** In general. 550-564

Carriers of goods: contractual limitation of liability. 551-556

Carriers of passengers: contractual limitation of liability. 559-560

Effect of agreed valuation: Carmack Amendment. 556-557

Effect of notice filed with public service commission. 517

**Passengers: who are passengers:** Gratuitous carriage by custom:

effect of violation of statute against free transportation. 320

**Passengers: ejection of passengers:**

Refusal to pay unlawful fare. 206

**Passengers: injuries to passengers:**

Right to recover for insults of a servant although subject to ejection. 620, 626

**Sleeping cars:** Liability for loss of baggage. 104

Segregation of negroes in. 417, 425

**Loss or injury to goods:** Liability for negligent mutilation of dead body. 322

**CHARACTER.**

Evidence of, see under *Evidence*.

**CHARITIES AND TRUSTS FOR CHARITABLE USES.**

See *Trusts*.

**CHARTERS.**

See under *Corporations*.

**CHECKS.**

See under *Banks and Banking*; *Bills and Notes*.

**CHOSES IN ACTION.**

Situs of, see under *Conflict of Laws*.

**CITIES.**

See *Municipal Corporations*.

**CLASS LEGISLATION.**

See under *Constitutional Law* (*Privileges and Immunities*; *Class Legislation*).

**COLLATERAL SECURITY.**

See *Pledges*.

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**COLLECTION.**

See *Banks and Banking*.

**COMBINATIONS.**

See *Interstate Commerce; Restraint of Trade; Trade Unions*.

**COMMERCE.**

See *Constitutional Law; Foreign Commerce; Interstate Commerce; Restraint of Trade*.

**COMMON LAW.**

Federal legislation and state common law. 171-173

**COMPENSATION.**

See under *Eminent Domain; Specific Performance*.

**COMPETITION.**

See under *Restraint of Trade*.

**COMPOSITION WITH CREDITORS.**

See under *Bankruptcy*.

**CONFESSIONS.**

See under *Evidence*.

**CONFLICT OF LAWS.**

See also *Constitutional Law; Domicile; Federal Courts; Taxation*.

**Recognition of foreign judgments:** Comity in international law. 589-590

**Situs of choses in action:** Situs of promissory notes for purposes of taxation. 104

Taxation of foreign corporation on credits in hands of local agent. 214

**Jurisdiction for divorce:** Conclusiveness of decree in divorce proceedings in which both parties before court as to jurisdiction of court to grant divorce. 471-472

General discussion of requirements for jurisdiction: *Haddock v. Haddock*. 457-472

Judicial separation in England. 425

Matrimonial domicile. 469

Separate domicile of wife. 196, 207

**Testamentary succession:** Enhancement of testamentary capacity by change of domicile. 809

**Obligations ex delicto: creation and enforcement:** Action by personal representative for tort committed under foreign statute which vested right in beneficiary. 518

Recovery under workmen's compensation statute of place of injury while employed under contract made elsewhere. 524

**Effect and performance of contracts:** Effect of moratorium at place of payment. 407

**Rights and obligations of foreign corporations:** Assessment upon

member of foreign mutual benefit insurance association authorized by statute of corporation's domicile. 797, 808

Right of state to expel foreign corporation for resorting to federal courts. 304, 320

**CONSENT.**

See under *Assault and Battery; Criminal Law*.

**CONSIDERATION.**

Illegal consideration, see under *Illegal Contracts*.

**Theories of consideration:** Mutuality of engagement or undertaking as consideration. 121-134

Mutual promises as consideration for each other. 123-133

**What constitutes consideration:** Conditional promises as consideration. 126-128

Illusory promises. 131-132

Voidable promises as consideration. 128-131

**CONSPIRACY.**

See under *Restraint of Trade; Trade Unions*.

**CONSTITUTIONAL LAW.**

See also *Aliens; Conflict of Laws; Eminent Domain; Extradition; Federal Courts; Foreign Corporations; Habeas Corpus; Insurance; Interstate Commerce; Municipal Corporations; Police Power; Taxation*.

**Nature and development of constitutional government:** History of right to keep and bear arms. 473-477

Salient differences between Canadian and United States Constitutions. 568-569

The veto power in Canadian legislation. 578-579

**Construction, operation, and enforcement of constitutions:** Commerce "among the several states": judicial construction of. 34-81, 294-298

Effect of removal of constitutional restriction on unconstitutional statute. 233-234

Judicial review of legislation in Canada. 565-588

**Powers of the executive:** Delegation of legislative power to the executive: implied authority to withdraw public lands from entry. 613, 628

**Powers of judiciary:** Comparisons



References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- between judicial review in Canada and in United States. 582-588
- Enjoining state officials from holding unauthorized elections. 309, 327
- Judicial review of legislation in Canada: practice of provincial and dominion courts. 570-574
- Jurisdiction of United States Supreme Court to review cases involving federal right in state courts. 408
- Review of Canadian legislation by Judicial Committee of English Privy Council. 574-577
- Powers of legislature: taxation:**
- Stamp tax on bill of costs in state court. 705
- State power to tax proceeds of interstate commerce. 93, 115
- Powers of legislature: delegation of powers:** Delegation of power to Interstate Commerce Commission to fix rates. 110
- Power to classify taxable businesses. 95, 105
- Powers of legislature: territories:** Whether federal ownership of water rights in public domain. 286-291
- Powers of legislature: implied powers:** Federal disposition of state waters in priority states. 270-293
- Federal protection of migratory birds. 112
- Impairment of the obligation of contracts:** Contract by state not to exercise the rate-making power. 627
- Rights of lessee of property exempted from taxation by legislative contract. 703
- Trial by jury:** Trial of civil offender by military commission. 415, 425
- Due process of law:** Carrier required to perform terminal haulage for another. 799, 809
- Ex parte* divorce and the Fourteenth Amendment. 464-465
- Legislative divorce and the Fourteenth Amendment. 459-464
- Minimum wage for women and children: constitutionality. 89, 105
- Reception of verdict in prisoner's absence. 793, 810
- Requiring delivery of cars to connecting carrier. 799, 810
- Right to hear adverse evidence in hearing before administrative board. 198, 207
- State regulation of insurance rates. 84, 113
- State regulation of sale of stocks, bonds, and other securities. 626
- Statute denying compensation for buildings erected in line of plotted streets. 428
- Unconstitutional conviction under valid statute: mob violence. 793, 810
- Warehouse receipt made conclusive evidence. 627
- Personal rights: civil, political, and religious:** Eugenic marriage laws: constitutionality of Wisconsin statute. 112
- Liberty to contract: establishment of minimum wage for women and children. 89, 105
- regulation of hours of labor. 704
- statute forbidding exaction of agreement not to belong to labor union as condition of employment. 496, 518
- statute requiring corporations to give true reason for discharging employees. 496, 519
- statute requiring employers to give employees one day of rest in seven. 496, 519
- statutes restricting employment of aliens. 496, 519, 628
- Trial of civil offender by military commission. 415, 425
- Protection of private rights against legislative encroachment in Canada. 579-582
- Right to keep and bear arms. 473-477
- Right to vote. 810
- Privileges, immunities, and class legislation:** Personal discrimination: segregation of negroes in Pullman cars. 417, 425
- Right of a state to expel foreign corporation for resorting to federal courts. 304, 320
- Statute prohibiting use of red flags in parades. 331
- Validity of state anti-trust act exempting combinations of labor. 105
- CONSTRUCTION.**
- Of constitutional provisions, see *Constitutional Law*.
- Of contracts, see under *Contracts; Insurance*.
- Of wills, see *Legacies and Devises; Wills*.

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## CONSTRUCTIVE TRUSTS.

### Nature and limitations of doctrine:

Bequests or devises induced by promises on active solicitation, with fraudulent intent at the time of promising, or by one in a special confidential relationship. 372-376

Constructive trusts based on promises made to secure bequests, devises, or intestate succession. 237-269, 366-393

Illegal promises by legatee or devisee. 372

Promises by legatee or devisee to hold for, or to pay or convey to others, designated to him in testator's lifetime, inducing the revocation or modification of the legacy or devise. 379-381

Promises by legatee or devisee to testator to hold for, or to pay or convey to others, whose names are communicated to him in testator's lifetime, and promise induces the giving of legacy. 369-372

Promises by legatee or devisee to testator to hold for, or to pay or convey to others whose names are not revealed in testator's lifetime. 367-369

Promises by less than all the legatees or devisees who take as tenants in common or joint tenants. 387-391

Promises by the heir or next of kin to hold for, or to pay or convey to others, whose names are communicated to him in the ancestor's lifetime, inducing intestacy in whole or part. 381-382

Tacit promises by legatee or devisee. 378-379

The policy of enforcing constructive trusts where a legacy or devise or intestate succession is secured by oral promises which are broken. 391-392

Unattested directions by testator not communicated to legatee or devisee in testator's lifetime. 366-367

What constitutes a sufficient communication of instructions by testator to legatee or devisee of secret trust. 376-378

Where will discloses that legatee or devisee is to hold in trust but does not disclose the terms. 382-387

### Misconduct by non-fiduciaries:

Right of one guilty of homicide without intent to acquire property thereby to inherit from his victim. 426

**Liability of innocent parties:** Attempted reservation of easements in grant of dominant tenement. 628

**Effect of statute of frauds:** Bequests, devises, or intestacies secured by oral or unattested written promises to apply for others some or all of the property so obtained. 251-269

## CONTEMPT.

See also *Courts*; *New Trial*; *Trial*.

### Acts and conduct constituting

**contempt:** Case taken from jury because of newspaper comment while it was pending. 605

Procuring institution of fraudulent suit on manufactured evidence. 426

## CONTINGENT REMAINDERS.

See *Vested, Contingent, and Future Interests*.

## CONTRACTS.

Capacity of parties, see *Corporations*; *Infants*; *Municipal Corporations*.

Contracts by estoppel, see under *Estoppel*.

Contracts implied in law, see *Quasi-Contracts*.

Illegality as a defense, see *Illegal Contracts*; *Usury*.

Requisites, see *Consideration*.

What law governs, see under *Conflict of Laws*.

See also *Agency*; *Bailments*; *Bankruptcy*; *Bills and Notes*; *Bonds*; *Carriers*; *Conflict of Laws*; *Constitutional Law*; *Constructive Trusts*; *Corporations*; *Damages*; *Deeds*; *Equity*; *Insurance*; *Limitation of Action*; *Parol Evidence Rule*; *Public Service Companies*; *Reformation of Instruments*; *Rescission*; *Restraint of Trade*; *Restrictions and Restrictive Agreements as to Use of Property*; *Sales*; *Specific Performance*; *Statute of Frauds*; *Suretyship*; *Telephone and Telegraph Companies*; *Trusts*; *Vendor and Purchaser*; *Warehousemen*.

**Defenses: in general:** *Moratorium*: debtor not bound to invoke. 407

**Defenses: fraud:** Misstatement of principal's minimum selling price by agent authorized to retain whole surplus. 811

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

### **Suits by third persons not parties**

to the contract: Sole beneficiary: Massachusetts law. 106

— contract made by labor union for benefit of its members: New York law. 427

— effect of rescission by contracting parties. 321

### **CONTRIBUTION.**

See also *Joint Wrongdoers*.

Shifting of criminal penalty to one primarily responsible. 687, 705

### **CONTRIBUTORY NEGLIGENCE.**

See also *Master and Servant*; *Negligence*; *Torts*.

**In general:** Effect of reliance on observance of speed laws by defendant. 436

**Statutory actions:** Contributory negligence under the Federal Employers' Liability Act. 163-185

**Imputed negligence:** Injury to young child by wild animal in consequence of negligence of child's custodian. 513

### **CONVERSION.**

See *Trover and Conversion*.

### **CONVEYANCES AND TRANSFERS OF PROPERTY.**

See *Bankruptcy*; *Corporations (De Facto)*; *Deeds*; *Easements*; *Landlord and Tenant*; *Mortgages*; *Restrictions and Restrictive Agreements as to Use of Property*; *Vested, Contingent, and Future Interests*.

### **COPYRIGHTS.**

See also *Patents*; *Restraint of Trade*.

Effect of federal anti-trust laws on commerce in copyright articles. 394-406

### **CORPORATIONS.**

See also *Banks and Banking*; *Conflict of Laws*; *Constitutional Law*; *Foreign Corporations*; *Interstate Commerce*; *Municipal Corporations*; *Public Service Companies*; *Railroads*; *Restraint of Trade*; *Sleeping Car Companies*; *Taxation*; *Telephone and Telegraph Companies*.

**Distinction between corporation and its members:** Disregarding corporate fiction: capture of vessels transferred to domestic corporation composed of alien enemies. 335

— with respect to statute of limitations. 811

**Citizenship and domicile of corpo-**

**ration:** Enemy character: domestic corporation composed of alien enemies. 629

**Charters: grant, construction, and amendment:** Reformation of charter for mistake of incorporators. 519

**Corporations de facto:** Collateral attack: effect of lease to corporation lacking general requisites. 313, 330

**Stockholders: individual liability to corporation and creditors:** Liability on stock left registered in transferor's name through corporation's fault. 422, 427

**Stockholders: rights incident to membership:** Liability of director for damage to corporation as stockholder in another corporation. 409, 427

Restriction on transfer of shares in agreement of association. 705

Suit in behalf of corporation: effect of prior suit by another stockholder. 812

### **CORPSES.**

See *Dead Bodies*.

### **COURTS.**

See also *Aliens*; *Appeal and Error*; *Constitutional Law*; *Contempt*; *Indictment and Information*; *International Law*; *Jurisprudence*; *Law*; *New Trial*; *Witnesses*.

Courts of Piepowder and Staple Courts. 138-139

Jurisdiction of United States Supreme Court to review cases involving federal right in state courts. 408

### **COVENANTS OF TITLE.**

Covenants in leases, see under *Landlord and Tenant*.

### **COVENANTS RUNNING WITH THE LAND.**

See *Landlord and Tenant*; *Restrictions and Restrictive Agreements as to Use of Property*.

### **COVERTURE.**

See *Husband and Wife*.

### **CREDITORS.**

See *Bankruptcy*; *Corporations*; *Fraudulent Conveyances*; *Partnership*.

### **CRIMINAL LAW.**

See also *Constitutional Law*; *Courts*; *Evidence*; *Extradition*; *Federal Courts*; *Habeas Corpus*; *Indictment and Information*; *New Trial*; *Pardon*; *Self-Defense*; *Witnesses*.

Particular crimes, see *Contempt*.

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**Attempt:** Whether acceptance of bribe for purposes of detection prevents consummation of crime of bribery. 321

**Statutory offences:** White slave traffic act: liability of the woman for conspiracy. 629

**Defenses:** Participation to detect crime. 520

**Sentence:** Effect of commutation. 322

**Appeal:** Time within which motion for new trial must be made. 412, 434

## D

### DAMAGES.

See also *Breach of Marriage Promise; Carriers; Dead Bodies; Libel and Slander; Nuisance; Proximate Cause; Railroads; Telephone and Telegraph Companies; Torts.*

**Measure of damages: contracts:** Measure of damage for discharge of attorney without cause. 101

**Measure of damages: tort:** Severance from realty: wilful and innocent trespass. 706

### DANGEROUS PREMISES.

See *Landlord and Tenant; Negligence; Torts.*

### DE FACTO CORPORATIONS.

See under *Corporations.*

### DEAD BODIES.

Negligent mutilation: right of recovery for mental anguish by relative other than next of kin. 322

### DEATH BY WRONGFUL ACT.

**Statutory liability in general:** Liability to widow who married deceased after injury. 812

**Defenses to statutory liability:** Release by deceased. 802, 812

### DEBT.

Discharge of, see under *Bankruptcy.*  
See also *Conflict of Laws; Limitation of Action; Municipal Corporations; Taxation.*

### DECEIT.

See also *Infants.*

**Particular cases:** Trade union's failure to notify of change in wage scale. 630

### DEEDS.

See also *Parol Evidence Rule.*

Estoppel by deed, see *Estoppel.*

**Construction and operation in general:** Conveyance by grantor to himself and wife. 631

Effect of redelivery of an unrecorded deed to the grantor in order to divest title from the grantee. 813

### DEFAMATION.

See *Libel and Slander.*

### DELEGATION OF POWER.

See under *Constitutional Law.*

### DELIVERY.

Of deeds, see under *Deeds.*

See also *Gifts.*

### DEPOSITARIES.

See *Banks and Banking.*

### DEPOSITS.

See under *Banks and Banking.*

### DESCENT AND DISTRIBUTION.

See also *Constructive Trusts; Executors and Administrators; Joint Tenancy; Legacies and Devises; Restrictions and Restrictive Agreements as to Use of Property; Taxation; Wills.*

Heir's indebtedness to estate as prior lien on his share of realty. 108

Right of one guilty of homicide without intent to acquire property thereby to inherit from his victim. 426

### DIRECTORS.

See *Corporations.*

### DISCHARGE.

Of bills and notes, see under *Bills and Notes.*

Of contracts, see under *Contracts.*

Of debts by bankruptcy proceedings, see under *Bankruptcy.*

### DISCOVERY.

**Privilege:** Notes of previous legal proceedings made in anticipation of future litigation. 207

### DISSOLUTION.

Of partnership, see under *Partnership.*

### DISTRIBUTION.

See *Descent and Distribution.*

### DIVIDENDS.

See *Corporations.*

### DIVORCE.

See also *Conflict of Laws; Constitutional Law; Domicile.*

**Jurisdiction:** Conclusiveness of decree where both parties before court as to jurisdiction of court to grant divorce. 471-472

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- General discussion: Haddock *v.*  
Haddock. 457-472  
Judicial separation in England. 425  
Separate domicile of wife. 196, 207
- DOCUMENTS.**  
As evidence, see under *Evidence*.
- DOMICILE.**  
See also *Conflict of Laws*.  
Husband and wife: possibility of separate domiciles. 196, 207  
Matrimonial domicile. 469
- DOWER.**  
See also *Specific Performance (Partial Performance with Compensation)*.

Injunction against waste to protect inchoate right of dower. 615, 631

Creation of dower right in stranger apart from seisin of the husband. 717

**DUE PROCESS OF LAW.**  
See under *Constitutional Law*.

**DURESS.**  
Money paid under, see *Quasi-Contracts*.  
History of duress in the law. 357-359

**DYING DECLARATIONS.**  
See under *Evidence*.

## E

### EASEMENTS.

See also *Constitutional Law*; *Eminent Domain*; *Highways*; *Railroads*.

#### Restrictions and restrictive agreements as to use of property.

Nature and classes of easements: right to an unobstructed view of premises from the highway: right of publicity. 499, 520

**Modes of acquisition: implied grant and reservation:** Effect of sale of land with knowledge of proposed use as creating easement. 106

Right to water pumped by gasoline engine on adjoining land. 323

**Extinguishment of easement:** Attempted reservation of easements in grant of dominant tenement. 628

Extinguishment by eminent domain: necessity of notice. 323

### ELECTIONS.

See also *Constitutional Law*.

Preventing electors from voting at congressional election. 810

Taxpayer's suit to enjoin illegal elections. 309, 327

### EMINENT DOMAIN.

**For what purposes property may be taken:** Land condemned by railroad used for private warehouse. 208

**What property can be taken:** Land already devoted to the same public use. 707

**When is property taken:** Loss caused by federal shifting of harbor lines. 806, 814

Taking of riparian rights by eminent domain. 484-486, 494

**Compensation:** Statute denying

compensation for buildings erected in line of plotted streets. 428

Taking of private way for public street. 631

Validity of statute extinguishing right to compensation without notice of taking. 323

### EMPLOYERS' LIABILITY ACTS.

See under *Master and Servant*.

### EQUITABLE EASEMENTS.

See *Restrictions and Restrictive Agreements as to Use of Property*.

### EQUITY.

See also *Constructive Trusts*; *Discovery*; *Dower*; *Fraudulent Conveyances*; *Injunctions*; *Mortgages*; *Nuisance*; *Quasi-Contracts*; *Reformation of Instruments*; *Rescission*; *Restrictions and Restrictive Agreements as to Use of Property*; *Specific Performance*; *Statute of Frauds*; *Suretyship*; *Taxation*; *Trade Marks and Trade Names*; *Trusts*; *Waste*; *Wills*.

**Jurisdiction:** Clean hands: application of maxim to baseball contracts. 213

Contracts for joint, mutual, or joint and mutual wills. 246-251

Contracts to bequeath or to devise or to die intestate. 241-245

Discretion of court to refuse relief on grounds of public convenience. 110

Equity and the statute of frauds. 237-238

Injunction against continuing trespass where damages are nominal. 209

Jurisdiction of equity to enforce mutual wills. 218

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**ESTATES FOR LIFE.**

See *Life Estates*.

**ESTATES IN FEE SIMPLE.**

See *Vested, Contingent, and Future Interests*.

**ESTATES TAIL.**

See *Vested, Contingent, and Future Interests*.

**ESTOPPEL.**

**Estoppel in pais:** Effect of redelivery of an unrecorded deed to the grantor in order to divest title from the grantee. 813

Liability of nominal partner for injury to invited person. 331

Whether void assignment of lease a surrender by operation of law. 313, 330

**EVIDENCE.**

See also *Constitutional Law; Discovery; Parol Evidence Rule; Presumptions; Statute of Frauds; Wills; Witnesses*.

**General principles and rules of exclusion:** Matters likely to mislead jury: private rules to show standard of care. 633

**Hearsay: in general:** Applicability of hearsay rule to conduct of third person. 429

Hearsay testimony before the grand jury. 326

Use of account-books to prove non-delivery of goods. 815

**Confessions:** Admissibility of involuntary confession to impeach defendant as witness. 428

Involuntary confession of one crime inadmissible at trial for another: *res judicata*. 632

**Testimony given at former trial:** Admissibility of evidence given at criminal trial in subsequent civil action. 429

**Declarations concerning pedigree:** Requisite connection with family. 107

**Declarations against interest:** Admission of paternity of illegitimate child. 299, 324

**Shop books and account-books:** Use of account-books to prove non-delivery of goods. 815

**Statements in public documents:** Post-office records in England. 107

**Declarations concerning inten-**

**tion, feelings, or bodily condition:** Declarations of present intention as proof of existing fact. 299, 324

Expressions of present pain made to a physician at an examination to qualify him as a witness. 814

**Opinion evidence:** Expert testimony: calculation of probability. 693, 708

Handwriting: testing lay witnesses by extraneous true and forged signatures. 699, 708

Self-defense: bystander's opinion of defendant's danger from deceased. 708

**Character of parties:** Admissibility in civil suits involving moral turpitude. 707

Criminal prosecution for adultery: character of alleged participant. 324

**Documents:** Authentication of letters not in sender's handwriting. 520

**EX POST FACTO LAWS.**

See under *Constitutional Law*.

**EXCEPTIONS AND RESERVATIONS.**

See *Easements*.

**EXECUTORS AND ADMINISTRATORS.**

See also *Abatement and Revival; Descent and Distribution; Legacies and Devises; Powers; Wills*.

**Title:** Effect of revocation of administration upon *bonâ fide* purchaser's title to assets. 208

**Rights, powers, and duties:** Right of retainer: present scope of the doctrine. 325

**Administration:** Indebtedness of heir to estate as prior lien on his share of the realty. 108

**EXEMPLARY DAMAGES.**

See under *Damages*.

**EXPERT TESTIMONY.**

See *Evidence (Opinion Evidence)*.

**EXPLOSIVES.**

Liability of handler of explosives for acts of independent contractor. 100

**EXTRADITION.**

**Interstate extradition under the United States Constitution:** Proof of insanity as ground for resisting extradition. 430

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## F

**FEDERAL COURTS.**

See also *Admiralty; Bankruptcy; Constitutional Law; Courts; Evidence; Habeas Corpus.*

**Jurisdiction and power in general:** *Ad damnum* reduced to prevent removal from state to federal court. 633

Comity in the Circuit Courts of Appeal. 597-603

Comity in the federal courts. 599-603

Enjoining state public service commission from enforcing statute. 709

Jurisdiction of a federal court to issue *habeas corpus* to another federal court after commitment under alleged unconstitutional statute. 431

**Jurisdiction based on nature of subject matter:** Jurisdiction of United States Supreme Court to review cases involving federal right in state courts. 408

**FEE SIMPLE.**

See *Vested, Contingent, and Future Interests.*

**FELLOW SERVANTS.**

See under *Master and Servant.*

**FENCES:** Duty of railroad to fence, see under *Railroads.*

**FIDUCIARY RELATIONS.**

See *Agency; Attorneys; Corporations (Directors); Partnership; Trusts; Witnesses (Privileged Communications).*

**FIRES.**

See *Negligence; Torts.*

**FIXTURES.**

Removal: effect of new lease on tenant's right. 108

**FLAG LAWS.**

See *Constitutional Law; Police Power.*

**FORECLOSURE SALE.**

See under *Mortgages.*

**FOREIGN COMMERCE.**

See also *Constitutional Law; Interstate Commerce; Restraint of Trade.*

What constitutes: route over high seas with *termini* within one state. 634

**FOREIGN CORPORATIONS.**

See also *Conflict of Laws; Constitutional Law; Taxation.*

Conditions upon the right to do business: validity of judgment on foreign cause of action based on service on state officer. 804, 815

Domestic jurisdiction: jurisdiction of equity to interfere with internal management of foreign corporation. 611, 634

**FORGERY.**

See *Banks and Banking; Bills and Notes; Bonds; Evidence.*

**FRANCHISES.**

See also *Public Service Companies.*

Right to enjoin competitor illegally doing business without license. 815

Valuation for rate purposes. 501, 526

**FRAUD.**

Giving rise to constructive trusts, see *Constructive Trusts; Contracts.*

As ground for rescinding contract, see *Rescission.*

See also *Bankruptcy; Equity; Fraudulent Conveyances; Infants; Warehousemen.*

**FRAUDS, STATUTE OF.**

See *Statute of Frauds.*

**FRAUDULENT CONVEYANCES.**

See also *Bankruptcy; Partnership.*

**Transfers for value:** Conveyance in satisfaction of unenforceable express trust. 816

**Rights of creditors:** Right to set aside conveyance of partnership assets. 776-778

**FUGITIVE FROM JUSTICE.**

See *Extradition.*

## G

**GIFTS.**

**Gifts mortis causa:** Delivery by donor who has hope of recovery. 430

Gift of donor's own check. 325

In general. 240-241

**GRAIN ELEVATORS.**

See *Railroads; Warehousemen.*

**GRAND JURY.**

See *Constitutional Law; Evidence; Indictment and Information; Witnesses.*

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## H

**HABEAS CORPUS.**

See also *Constitutional Law*; *Federal Courts*.

Jurisdiction of federal court to issue writ after commitment by another federal court under alleged unconstitutional statute. 431

**HANDWRITING.**

Expert evidence as to, see *Evidence (Opinion Evidence)*.

**HEARSAY EVIDENCE.**

See under *Evidence*.

**HIGHWAYS.**

See also *Easements*; *Eminent Domain*; *Railroads*; *Waters and Watercourses*.

**Establishment:** Extent of public right in highways in Massachusetts. 478-480

**Rights and remedies of abutters:** Liability of public authorities for interference with waters in location and repair of highways. 478-495

**HISTORY OF LAW.**

See also *Constitutional Law*; *Jurispru-*

*dence*; *Partnership*; *Waters and Watercourses*.

**Property:** Distinction between sovereign jurisdiction and ownership of property. 282-285

Rights in running water: the riparian and priority systems. 271-282

The evolution of the contingent remainder. 191

**Partnership:** The Uniform Partnership Act. 762-789

**HOMICIDE.**

Right to inherit from victim, see under *Constructive Trusts (Misconduct by Non-Fiduciaries)*.

**HUSBAND AND WIFE.**

See also *Breach of Marriage Promise*; *Conflict of Laws*; *Constitutional Law*; *Death by Wrongful Act*; *Divorce*; *Domicile*; *Dower*; *Marriage*.

**Rights of wife against husband and in his property:** Wife's right to sue husband for personal tort. 109

## I

**ILLEGAL CONTRACTS.**

See also *Bills and Notes*.

Restraint of trade, see *Restraint of Trade*.

Usurious contracts, see *Usury*.

**Contracts collaterally related to something illegal or immoral:**

Action by monopoly on contract legal in itself. 691, 710

**Contracts against public policy:**

Contracts by railroad as to location of depots. 326

Contract to waive statutory abolition of the fellow-servant rule. 710

**IMPEACHMENT.**

Of witnesses, see *Witnesses*.

**IMPLIED CONTRACTS.**

See under *Contracts*; *Quasi-Contracts*.

**IMPUTED NEGLIGENCE.**

See under *Contributory Negligence*.

**INDEMNITY.**

See also *Trusts (Powers and Obligations of Trustees)*.

Joint wrongdoers: parties not *in pari delicto*. 636

**INDEPENDENT CONTRACTOR.**

Liability of principal for torts of, see under *Agency*.

**INDICTMENT AND INFORMATION.**

See also *Criminal Law*.

**Finding and filing indictment:**

Validity of indictment based on hearsay testimony. 326

Effect of presence of stenographer in grand jury room. 326

**INFANTS.**

See also *Contributory Negligence*; *Negligence*; *Parent and Child*.

**Torts:** Liability for tort arising in connection with contract. 521

**INFRINGEMENT.**

Of copyrights, see *Copyrights*.

**INHERITANCE.**

See *Descent and Distribution*.  
Tax on, see *Taxation*.

**INJUNCTIONS.**

See also *Equity*; *Federal Courts*; *Fran-*



References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

*chises; Privacy, Right of; Restraint of Trade; Restrictions and Restrictive Agreements as to Use of Property; Specific Performance; Trade Marks and Trade Names; Wills.*

**Nature and scope of remedy:** Clean hands: application of the maxim to baseball contracts. 213

Discretion of court to refuse relief on grounds of public convenience. 110

Injunction against continuing trespass where damages nominal. 209

**Acts restrained:** Election of delegates to unauthorized constitutional convention. 309, 327

Payment of salaries alleged not to be constitutionally authorized. 634

## INNKEEPERS.

See *Public Service Companies.*

## INSOLVENCY.

See *Bankruptcy.*

## INSURANCE.

See also *Bankruptcy; Public Service Companies.*

**State control of insurance companies:** Constitutionality of statute regulating insurance rates. 84, 113, 143-146

**Re-insurance:** Liability of re-insurer to insured who accepts assignment of re-insurance contract in satisfaction of his claim. 521

Measure of liability of re-insurer when insurer bankrupt. 302, 327

Measure of liability of re-insurer when insured insolvent. 522

**Accident insurance:** "Accidental": meaning of, in policy. 209

**Mutual benefit insurance:** Change of beneficiary: effect of payment of assessments by prior beneficiary. 711

## INTENT.

See *Criminal Law; Torts.*

## INTENTION.

Declarations of, see under *Evidence.*

## INTEREST.

Declarations against, see under *Evidence.*

Usurious interest, see *Usury.*

## INTERNATIONAL LAW.

See also *Admiralty; Aliens; Conflict of Laws; War.*

**Change of sovereignty:** Validity of change of registry by belligerent vessel in time of war. 188

## INTERROGATIONS.

See *Discovery.*

## INTERSTATE COMMERCE.

See also *Carriers; Constitutional Law; Foreign Commerce; Public Service Companies; Railroads; Restraint of Trade.*

**What constitutes interstate commerce:** Separation of interstate and intrastate accounts in federal and state regulation of rates. 742-761

Basis in Minnesota Rate Cases in division between interstate and intrastate business. 753-755

**Control by Congress:** Acts to regulate commerce: issuance of passes to employees of common carriers not subject to the act. 635

Carmack Amendment and agreed valuation of goods in interstate shipments. 557

— application to shipments between two *termini* in same state passing through another state. 635

Conflict between federal and state police regulations: safety appliance laws. 711

Control of interstate pipe lines not professing public carriage. 84, 104

Federal Employers' Liability Act. 163-185

— assumption of the risk as affected by employer's violation of state factory act. 712

Federal regulation of intrastate rates, which conflict with interstate rates: the Shreveport Rate Cases. 34-81

Sherman Anti-Trust Law: the rule of reason and the dissolution of the International Harvester Co. 87, 114

Webb-Kenyon Act: interstate liquor shipments. 225-236

**Control by states:** Intrastate rates conflicting with interstate rates. 34-81, 294-298

Police power of state: prohibiting shipment of fruit unfit for consumption. 819

Railroad regulation: regulations by state commission as to demurrage. 328

Regulation of interstate liquor shipments under the Webb-Kenyon Act. 225-236

State tax on interstate C. O. D. shipments of intoxicating liquors: Webb-Kenyon Act. 432

Statutes interfering with right of foreign corporation to enforce in

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

state courts contracts arising in interstate commerce.	431
State power to tax proceeds of interstate commerce.	93, 115
<b>Interstate Commerce Commission:</b> Jurisdiction of state court over suit against interstate carrier without prior action by the commission.	816
Power of the commission to fix rates: The Intermountain Rate Cases.	110
Power to inspect correspondence of carriers.	636
Power to regulate intrastate rates: the Shreveport Rate Cases.	59-81, 113, 294-298
Regulation of rates: The Five Per Cent Rate Cases.	97, 413

Tariffs: liability of railroad for quoting published rate no longer applicable because of change in name of station.	516
The work of the commission.	419

### INTOXICATING LIQUORS.

See also *Interstate Commerce; Police Power.*

<b>Legislation:</b> Constitutionality of state legislation under the Webb-Kenyon Act.	225-236
State tax on interstate C. O. D. shipments of intoxicating liquor: Webb-Kenyon Act.	432

### IRRIGATION.

See *Constitutional Law; Waters and Watercourses.*

## J

### JOINT DEBTORS.

See *Bills and Notes; Suretyship.*

### JOINT STOCK COMPANY.

See *Partnership.*

### JOINT TENANCY.

Taxation of right of survivorship under New York transfer tax.

437

### JOINT WRONGDOERS.

Indemnity as between parties not *in pari delicto.*

636

### JUDGES.

See *Appeal and Error; Courts; Federal Courts.*

### JUDGMENTS.

See *Appeal and Error; Conflict of Laws.*

### JURISDICTION.

Personal, *quasi in rem*, and for divorce, see *Conflict of Laws.*

In equity, see *Equity.*

Of federal courts, see *Federal Courts.*

For taxation, see *Taxation.*

See also *Constitutional Law; Courts; International Law.*

### JURISPRUDENCE.

See also *Courts; History of the Law; Law.*

Business jurisprudence.	135-162
Honor and reputation in the law.	445-453
Individual interests.	346-350
Interests of personality.	343-365
Interests: individual, public, and social interests.	343-346
— the relation of the law to freedom of belief and expression of opinion.	453-456
Inviolability of the physical person.	355-365
Personality.	351-355
The law merchant in the days of the Year Books.	136-140
The terminology of legal science, with a plea for the science of nomothetics.	1-9

### JURY.

Grand Jury, see *Grand Jury.*

## L

### LABOR UNIONS.

See *Constitutional Law; Trade Unions.*

### LAKES AND RIVERS.

See *Waters and Watercourses.*

### LANDLORD AND TENANT.

Rights as to fixtures, see under *Fixtures.*

See also *Restrictions and Restrictive Agreements as to Use of Property.*

**Terms for years:** Parol surrender of last year of term to take effect *in futuro.*

436

**Conditions and covenants in leases:** Covenant to repair: right of invitee to tenant to recover from landlord under.

432

Waiver of breach of condition by application to compel lessee's re-

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- ceiver to elect to adopt or renounce lease. 328  
Whether covenant not to assign binds assignees not named. 712
- Repair and use of premises:** Landlord's liability for obvious defects in premises remaining under his control. 329  
Landlord's liability for violation of tenement house statute requiring fire escapes. 111
- Rent:** Liability for rent after breach of covenant by landlord. 522
- Surrender by operation of law:** Effect of void assignment of original lease. 313, 330  
Reletting of premises by landlord. 329
- LAW.**  
See also *Courts, Jurisprudence.*  
Business jurisprudence. 135-162  
Courts of Piepowder and Staple Courts. 138-139  
Interests of personality. 343-365, 445-456  
The law merchant in the days of the Year Books. 136-140  
The terminology of legal science, with a plea for the science of nomothetics. 1-9
- LAW SCHOOL.**  
Changes in the curriculum for the academic year 1914-15. 83  
Ames Competition: Results 1914-15. 605  
— changes in the rules. 84  
John Chipman Gray. 539-549, 604  
Registration. 186  
The appointment of Professor Frankfurter. 82  
The Harvard Legal Aid Bureau. 188  
The Taft Lectures. 188
- LEASES.**  
See *Landlord and Tenant.*
- LEGACIES AND DEVISES.**  
See also *Conflict of Laws; Constructive Trusts; Descent and Distribution;*
- Executors and Administrators; Powers; Rule against Perpetuities; Trusts; Vested, Contingent, and Future Interests; Wills.*
- Title and rights of devisees and legatees:** Disclaimer by parol. 210  
Election to take under will or by descent. 332
- General liability of legatees and devisees:** Bequests and devises secured by oral or unattested written promises to apply for others some or all of the property so obtained. 251-269, 366-393
- LEGAL BIOGRAPHY.**  
Gray, John Chipman. 539-549, 604
- LEGISLATURE.**  
Power of, see *Constitutional Law.*
- LIBEL AND SLANDER.**  
See also *Privacy, Right of.*  
**Acts and words actionable:** Honor and reputation in the law. 445-453  
Words imputing immorality to school teacher: whether actionable *per se.* 713
- Defenses:** Libel of business conducted in violation of statute. 637
- LIENS.**  
See *Bankruptcy; Maritime Liens; Mechanics' Liens; Pledges; Suretyship.*
- LIFE ESTATES.**  
Recovery by life tenant for injury to the inheritance: relation to liability for permissive waste. 637
- LIMITATION OF ACTION.**  
**Nature and construction of statute:** Effect of war on operation of statute. 673-682  
Legal disability: whether proof in bankruptcy stops running of statute. 210
- LITERARY PROPERTY.**  
See *Copyrights.*

## M

### MANDAMUS.

See also *Taxation.*

**Acts subject to mandamus:** Compelling city officials to submit alleged unconstitutional ordinance to popular vote. 523

### MANDATORY INJUNCTIONS.

See *Injunctions.*

### MARITIME LAW.

See *Admiralty.*

### MARITIME LIENS.

**Nature and scope:** Aeroplane fallen in navigable waters. 200, 203

### MARKETABLE TITLE.

See under *Mortgages.*

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**MARRIAGE.**

See also *Breach of Marriage Promise; Conflict of Laws; Constitutional Law (Personal Rights); Divorce; Domicile; Husband and Wife.*

Eugenic marriage laws: constitutionality of Wisconsin statute. 112

**MARRIED WOMEN.**

See *Domicile; Dower; Husband and Wife.*

**MASTER AND SERVANT.**

Liability of master to third persons, see *Agency.*

State regulation of the relation, see *Constitutional Law.*

See also *Illegal Contracts; Torts; Trade Unions.*

**Duty of master to provide safe appliances:** Emergency duty to summon medical assistance to injured employee. 607, 638

**Assumption of risk:** Contributory negligence and assumption of risk. 182-184

In general: common-law doctrine. 176-178

Promise by master to effect such a change in the method of work as to make the employee's services unnecessary. 817

**Employers' liability acts:** Assumption of risk under the Federal Employers' Liability Act. 163-185

"Risks of employment." 175-178

**Workmen's compensation acts:** Effect of illegality of contract of employment. 523

Employer's right to reimbursement from tortfeasor for compensation paid injured employee. 307, 333

General release of employer upon payment of compensation: right to subsequent recovery against third party. 713

Occupational disease: whether an "accident." 111

Recovery under statute of place of injury while employed under contract made elsewhere. 524

**MECHANICS' LIENS.**

Architect's lien for plans accepted but not used to effect actual improvement on the land. 714

Waiver of lien by contract between materialman and contractor. 433

**MISTAKE.**

See *Reformation of Instruments; Rescission.*

**MONOPOLIES.**

See *Copyrights; Patents; Restraint of Trade.*

**MORTGAGES.**

See also *Executors and Administrators; Vendor and Purchaser.*

**Foreclosure:** Defect of title as defense to purchase money mortgage. 524

Right of innocent party to a usurious mortgage to recover: New York law. 821

Right to sue for deficiency after strict foreclosure. 641

**MUNICIPAL CORPORATIONS.**

**Proceedings of council or other governmental body:** Effect of blank ballot. 715

**Municipal debts and contracts:** Liability for benefits received under contracts that exceed debt limit. 715

**Actions by and against municipal corporations:** Right of township to recover from landowner whose negligence has caused damage for which it has had to answer. 636

**MURDER.**

See *Criminal Law; Homicide.*

**MUTUAL BENEFIT SOCIETIES.**

See under *Insurance.*

## N

**NEGLIGENCE.**

In particular relationships, see *Agency; Attorney and Client; Bailments; Banks and Banking; Bills and Notes; Carriers; Corporations; Master and Servant; Municipal Corporations; Railroads; Telephone and Telegraph Companies.*

See also, *Animals; Contributory Negli-*

*gence; Damages; Dead Bodies; Evidence; Explosives; Proximate Cause; Torts.*

**Duty of care:** Contractual limitation of liability for negligence. 550-564

Effect of violation of statute prohibiting employment of minors in elevators. 433

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- Electric wires: duty of electric company to licensee on land of third party. 818
- Liability for fire loss caused by injury to third party's hose. 511, 525
- Liability for operation of automobile improperly registered. 505, 525
- Violation of ordinance prohibiting sale of firearms to minors. 435
- Violation of statute. 175
- Violation of tenement house statute requiring fire escapes. 111
- Defenses:** Illegal act of plaintiff: violation of statute against free transportation. 320
- Injury sustained in saving life endangered by another's negligence. 638

## NEGOTIABLE INSTRUMENTS.

See *Bills and Notes*.

## NEGROES.

See *Constitutional Law*.

## NEW TRIAL.

See also *Appeal and Error; Criminal Law*.

Grounds for granting: limitation to issue of plaintiff's capacity. 526

Time within which motion must be made: effect of expiration of term. 412, 434; 659-662

## NUISANCE.

See also *Equity; Injunctions; Municipal Corporations; Waters and Watercourses*.

Discretion of court to refuse relief on grounds of public convenience. 110

Injunction when present damages are nominal. 209

# O

## OPINION EVIDENCE.

See under *Evidence*.

## ORDINANCES.

See *Constitutional Law; Municipal Corporations*.

## OWNERSHIP.

See *Title, Ownership, and Possession*.

# P

## PARDON.

Does a pardon blot out guilt? 647-663

Effect of an unaccepted pardon upon the privilege against self-incrimination. 609, 642

Effect of commutation of sentence. 322

## PARENT AND CHILD.

See also *Contributory Negligence (Imputed Negligence); Infants*.

Parent's liability for child's use of family automobile. 91, 100

Parent's liability for tort of child: knowledge of previous commission of similar dangerous act. 330

## PAROL EVIDENCE RULE.

See also *Evidence*.

**Substantive law expressed in terms of evidence:** Contracts: addition of term implied by custom. 639

## PART PERFORMANCE.

See *Specific Performance (Partial Performance with Compensation)*.

## PARTNERSHIP.

**Nature of partnership:** Entity theory: history. 762-769

Entity theory under Uniform Partnership Act. 769-776

The Uniform Partnership Act: criticism of. 762-789

**Partnership property:** Fraudulent conveyances: Uniform Partnership Act. 776-778

Power of partnership to acquire and convey title to real estate in partnership name: Uniform Partnership Act. 778-779

Under Uniform Partnership Act. 771-780

**Rights, duties, and liabilities of partners inter se:** Liability of partner's separate estate to contribute to payment of partnership liabilities: Uniform Partnership Act. 784-786

**Rights and remedies of creditors:** Right to set aside dispositions of partnership property: Uniform Partnership Act. 771-778

**Rights of partnership and part-**

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- nership: Uniform Partnership Act. 779-781
- Retirement and admission of partners:** Liability of nominal partner for injury to invited person. 331
- Liabilities of retiring partners to third persons: Uniform Partnership Act. 783-784
- Dissolution and winding up:** Duty to account on dissolution: Uniform Partnership Act. 787-788
- Notice of dissolution: Uniform Partnership Act. 782-783
- PASSENGERS.**
- See *Carriers; Railroads; Street Railways.*
- PATENTS.**
- See also *Copyrights; Restraint of Trade.*
- Extent of use of patent:** The effect of the federal "anti-trust laws" on commerce in patented articles. 394-406
- PEDIGREE.**
- Declarations concerning, see under *Evidence.*
- PERPETUITIES, RULE AGAINST.**
- See *Rule against Perpetuities.*
- PERSONAL PROPERTY.**
- See *Bailments; Dead Bodies; Fixtures; Gifts; Liens; Pledges; Sales.*
- PERSONS.**
- See *Divorce; Dower; Husband and Wife; Infants; Parent and Child.*
- PHOTOGRAPHS.**
- See *Privacy, Right of.*
- PHYSICIANS AND SURGEONS.**
- Communications between physician and patient, see under *Witnesses (Privileged Communications).*
- PLEDGES**
- Lien of pledgee: whether lost by delivery to pledgor as agent. 211
- POLICE POWER.**
- See also *Constitutional Law; Interstate Commerce; Municipal Corporations.*
- Nature and extent:** Federal protection of migratory birds. 112
- Statute regulating the private use of intoxicants. 818
- Interest of public health:** Eugenic marriage law: constitutionality of Wisconsin statute. 112
- Interest of public order:** Validity of statute prohibiting use of red flags in parades. 331
- Regulation of trade, professions, and business:** Minimum wage for women and children. 89, 105
- Pipe lines. 84
- Prohibition of night work by women in factories. 790, 819
- Protection of the economic welfare of a state: prohibition of shipment of fruit unfit for consumption. 819
- Regulation of insurance rates. 84, 113
- POSSESSION.**
- See *Title, Ownership, and Possession.*
- POWERS.**
- See also *Rule against Perpetuities.*
- Appointment to remainderman: effect of partial appointment to others on right to election. 332
- Non-exclusive powers: doctrine of illusory appointments in United States. 434
- Validity of a general power given to an unborn child of a living person. 664-672
- PREFERENCES.**
- Under bankruptcy laws, see *Bankruptcy.*
- PRESUMPTIONS.**
- Existence and effect of presumptions in particular cases:** No presumption on a presumption. 795, 820
- PRINCIPAL AND AGENT.**
- See *Agency.*
- PRINCIPAL AND SURETY.**
- See *Suretyship.*
- PRIORITIES.**
- See under *Bankruptcy.*
- PRIVACY, RIGHT OF.**
- Nature and extent of the right:**
- Honor and reputation in the law. 445-453
- Possible interests in one's name or picture. 689, 715
- The right of privacy, in general. 362-364
- PRIVILEGE.**
- See *Constitutional Law; Libel and Slander; Witnesses.*
- PROCEDURE.**
- See *Appeal and Error; Criminal Law; Equity; Federal Courts; Indictment and Information; New Trial.*
- PROMISSORY NOTES.**
- See *Bills and Notes.*
- PROPERTY.**
- See *Constitutional Law; Constructive Trusts; Copyrights; Descent and Distribution; Dower; Easements;*

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

*Eminent Domain; Franchises; Gifts; History of the Law; Husband and Wife; Joint Tenancy; Jurisprudence; Landlord and Tenant; Legacies and Devises; Life Estates; Limitation of Action; Maritime Liens; Mechanics' Liens; Mortgages; Partnership; Patents; Pledges; Powers; Restrictions and Restrictive Agreements as to Use of Property; Rule against Perpetuities; Sales; Salvage; Taxation; Title, Ownership, and Possession; Trade Marks and Trade Names; Trover and Conversion; Trusts; Vendor and Purchaser; Vested, Contingent, and Future Interests; Waste.*

### PROXIMATE CAUSE.

**Efficient cause of injury:** Consequential damages. 14, 32-33  
 Definitional consequences of a duty and violative consequences and the test of their proximity. 28-32  
 Liability for improbable consequences of dangerous agencies. 26-27  
 Liability for intentional consequences. 17  
 Liability for probable consequences. 17-20  
 Proximate consequences in the law of torts. 10-23  
**Intervening causes:** Independent or isolating causes. 20-33  
 Peremptory duties and isolating causes. 24-25  
 Foreseeability: effect of violation of statute prohibiting sale of firearms to minors. 435

### PUBLIC OFFICERS.

Enforcement of performance of duties, see under *Mandamus*.

### PUBLIC SERVICE COMPANIES.

Liability to passengers, shippers, and owners of goods, see under *Carriers*.

See also *Eminent Domain; Franchises, Interstate Commerce; Railroads; Restraint of Trade; Street Railways*.

**What callings are public:** Common and private employments under the old common law. 147-150

Insurance companies. 84, 113, 143-146

Pipe lines. 84, 142-143

Public and private callings under modern law. 140-147, 156-162

**Regulation of public service companies:** Telephone companies: commission's order compelling physical connections. 113

Valuation of franchise for rate purposes. 501, 526

**Rights and duties:** Discretion of court to refuse injunction to restrain violation of charter on grounds of public convenience. 110

Contracts by railroad as to location of depots. 326

### PUBLIC USE.

See *Eminent Domain*.

### PURCHASERS FOR VALUE WITHOUT NOTICE.

See under *Bankruptcy; Bills and Notes; Trusts*.

## Q

### QUASI-CONTRACTS.

See also *Constructive Trusts; Equity*.  
**Money paid under duress or com-**

**pulsion of law:** Threat of legal proceedings. 332

## R

### RAILROADS.

Federal regulation, see *Interstate Commerce*.

Liability to passengers, shippers, and owners of goods, see under *Carriers*.

See also *Contributory Negligence; Dead Bodies; Eminent Domain; Illegal Contracts; Master and Servant;*

*Public Service Companies; Street Railways*.

**Title to land or right of way:** Land condemned by railroad used for private warehouse. 208

**Liability to trespassers:** Injury sustained in saving life endangered by another's negligence. 638

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**Liability for damage to animals:**

Breach of duty to fence. 716

**State regulation in general:** Statutes requiring segregation of negroes in Pullman cars. 417, 425

**Regulation of rates:** Power of Interstate Commerce Commission over intrastate rates: Shreveport Rate Cases. 34-81, 113, 294-298

State regulation: non-compensatory rates for passengers or particular commodities. 683, 716

— statutory penalty for violation of state commission's order. 527

The Five Per Cent Rate Cases. 97, 413

**RAPE.**

Civil liability, see *Assault and Battery*.

**REAL PROPERTY.**

See *Accretion; Conflict of Laws; Deeds; Descent and Distribution; Dower; Easements; Eminent Domain; Equity; Executors and Administrators; Fixtures; Highways; History of the Law; Husband and Wife; Injunctions; Joint Tenancy; Landlord and Tenant; Legacies and Devises; Life Estates; Limitation of Action; Mechanics' Liens; Mortgages; Municipal Corporations; Nuisance; Powers; Railroads; Restrictions and Restrictive Agreements as to Use of Property; Rule against Perpetuities; Specific Performance; Statute of Frauds; Taxation; Title, Ownership, and Possession; Trusts; Vendor and Purchaser; Vested, Contingent, and Future Interests; Waste; Waters and Watercourses; Wills.*

**REFORMATION OF INSTRUMENTS.**

Reformation of corporate charter for mistake of incorporators. 519

**RE-INSURANCE.**

See under *Insurance*.

**REMAINDERS.**

See *Vested, Contingent, and Future Interests*.

**RENT.**

See *Landlord and Tenant*.

**RES GESTAE.**

See under *Evidence*.

**RESCISSION.**

**Rescission by mutual agreement:** Rescission by contracting parties: effect on sole beneficiary's right. 321

**Rescission for fraud or mistake:**

Restoration of consideration by rescinding party: when excused. 316, 333

**RESTRAINT OF TRADE.**

See also *Illegal Contracts*.

**Monopoly:** The Clayton Act and trade in patented and copyrighted articles. 401-406

The effect of the federal anti-trust laws on commerce in patented and copyrighted articles. 394-406

**Sherman Anti-Trust Law:** Regulation of combination without dissolution: injunction against "fighting ships." 211

Size of combination as a basis for dissolution. 717

The rule of reason and the dissolution of the International Harvester Co. 87, 114

The Sherman Anti-Trust Law and patents, copyrights, and secret processes. 394-401

**Combination by agreements as to product or prices:** "Tying Contracts" under the Clayton Act. 402-403

**RESTRICTIONS AND RESTRICTIVE AGREEMENTS AS TO USE OF PROPERTY.**

See also *Injunctions; Landlord and Tenant; Specific Performance*.

Agreement in contract of sale to enter into restrictive covenant as creating equitable servitude. 435

Sale of lots according to plat. 212

Where covenant has no corporeal interest in the adjoining land. 201, 213

**RESULTING TRUSTS.**

See under *Trusts*.

**REVERSAL.**

See *Appeal and Error*.

**RIGHT OF PRIVACY.**

See *Privacy, Right of*.

**RIGHT OF WAY.**

See *Easements; Eminent Domain; Highways; Railroads*.

**RIPARIAN RIGHTS.**

See *Waters and Watercourses*.

**RULE AGAINST PERPETUITIES.**

See also *Vested, Contingent, and Future Interests*.

Annual gifts of income subject to variation in amount by extraneous circumstances. 820

General and particular intent in connection with rule. 639

Validity of general power given to unborn child of living person. 664-672



References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## S

**SALES.****Uniform Sales Act:**

§ 15 (6). 213

**Time of passing title:** Sale of standing trees. 114

**Risk of loss:** Effect of buyer's right of inspection. 114

**Conditional sales:** Remedies of seller: breach of a collateral contract as defense to replevin. 821

**Implied warranties:** Exclusion by express warranties. 213

**SALVAGE.**

Subjects of salvage: aeroplane fallen in navigable waters. 200, 203

**SELF-DEFENSE.**

Duty to retreat: attack by another inhabitant of one's own home. 527

**SENTENCE.**

See under *Criminal Law*.

**SHERMAN ANTI-TRUST LAW.**

See *Constitutional Law*; *Illegal Contracts*; *Interstate Commerce*; *Restraint of Trade*.

**SHIPPING.**

See *Admiralty*; *Carriers*; *Restraint of Trade*; *Salvage*.

**SITUS.**

See *Conflict of Laws*; *Taxation*.

**SLANDER.**

See *Libel and Slander*.

**SLEEPING CAR COMPANIES.**

See also *Carriers*.

Hand baggage: liability for loss of. 104

**SOVEREIGN.**

See *Conflict of Laws*; *History of Law*; *Jurisprudence*.

**SPECIAL LEGISLATION.**

See *Constitutional Law*.

**SPECIFIC PERFORMANCE.**

See also *Equity*; *Injunctions*; *Restrictions and Restrictive Agreements as to Use of Property*.

**General nature and scope of equitable relief:** Bequests, devises, or intestacies secured by oral or unattested written promises to apply for others some or all of the property so obtained. 251-260

Contracts to bequeath or to devise or to die intestate. 241-245

Contracts for joint, mutual, or joint and mutual wills. 246-251

**Affirmative contracts:** Agreement in contract of sale to enter into restrictive covenant. 435

**Partial performance with compensation:**

Creation of dower right in stranger apart from seisin of the husband. 717

**Defenses:** Clean hands: application of the maxim to baseball contracts. 213

**STATES.**

See *Conflict of Laws*; *Constitutional Law*; *Federal Courts*; *Interstate Commerce*; *Police Power*.

**STATUTE OF FRAUDS.**

See also *Constructive Trusts*; *Contracts*; *Trusts*; *Wills*.

**Interest in lands:** Parol surrender of final year of lease to take effect *in futuro*. 436

**Trusts:** Constructive trusts based on promises made to secure bequests, devises, or intestate succession. 237-269

**Operation and effect of statute:** Equity and the statute of frauds. 237-238

**STATUTE OF LIMITATIONS.**

See *Limitation of Actions*; *Wills*.

**STATUTES.**

See *Conflict of Laws*; *Constitutional Law*; *Federal Courts*.

**STEAMSHIPS.**

See *Admiralty*; *Carriers*; *Restraint of Trade*.

**STOCK.**

See under *Corporations*.

**STREETS.**

See *Highways*; *Municipal Corporations*.

**STREET RAILWAYS.**

Duties to passengers, see *Carriers*.

See also *Public Service Companies*; *Railroads*.

**Tort liability:** Contributory negligence and reliance on observance of statutory duty by defendant. 436

**STRIKES.**

See *Constitutional Law*; *Trade Unions*; *Unfair Competition*.

**SUBROGATION.**

See under *Insurance*; *Suretyship*.

**SUCCESSION.**

See *Descent and Distribution*; *Legacies and Devises*; *Taxation*.

**SURETYSHIP.**

See also *Bills and Notes*.

**Surety's defenses:** absence, extinction or suspension of principal

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**obligation:** Release of security by payee without assent of surety co-maker: Negotiable Instruments Law. 624

**Surety's defenses: extension of time to principal:** Effect upon liability of surety co-maker of promissory note. 102

**Surety's defenses: miscellaneous:** Effect of assignment of building contract by contractor on rights of materialmen. 528

## **SURFACE WATERS.**

See *Waters and Watercourses*.

## **SURRENDER.**

Of preferences, see under *Bankruptcy*.  
Of term by operation of law, see under *Landlord and Tenant*.

## **SURVIVAL.**

Of action, see under *Abatement and Revival*; *Death by Wrongful Act*.

## **SURVIVORSHIP.**

See *Joint Tenancy*.

# T

## **TAXATION.**

See also *Conflict of Laws*; *Constitutional Law*; *Quasi-Contracts*.

**General limitations on the taxing power:** Constitutional restrictions: state power to tax the proceeds of interstate commerce. 93, 115

Delegation of power to classify taxable businesses. 96, 105

Federal agency: state taxation of Indian coal mines. 528

**Collection and enforcement:** Equity jurisdiction. 617, 640

**Property subject to taxation:** Liability of trust with power to revoke reserved to transfer tax. 334

**Where property may be taxed:** Choses in action: situs of promissory notes. 104

Succession tax on securities temporarily removed from state. 529

Taxation of foreign corporation on credits in hands of local agent. 214

**Particular forms of taxation:** New York transfer tax: taxation of right of survivorship. 437

## **TEACHING OF LAW.**

See *Law School*.

## **TELEPHONE AND TELEGRAPH COMPANIES.**

See also *Interstate Commerce*; *Public Service Companies*.

**Status of companies as engaged in public employment:** Commission's order compelling physical connections. 113

**Contracts and stipulations limiting liability:** In general. 561-564

**Liability to addressee:** Disclosure of message: illegal transactions of addressee as defense. 640

## **TITLE, OWNERSHIP, AND POSSESSION.**

See also *Life Estates*; *Real Property*;

*Restrictions and Restrictive Agreements as to Use of Property*; *Trusts*; *Vested, Contingent, and Future Interests*.

Riparian rights incident to ownership of land, see under *Waters and Watercourses*.

**Ownership:** Distinction between sovereign jurisdiction and ownership of property. 282-285

## **TORTS.**

For particular torts, see *Assault and Battery*; *Dangerous Premises*; *Death by Wrongful Act*; *Deceit*; *Explosives*; *Fires*; *Libel and Slander*; *Negligence*; *Nuisance*; *Privacy*; *Right of*; *Trover and Conversion*.

For equity jurisdiction over, see *Equity*; *Injunctions*.

For torts in particular relations, see *Agency*; *Bailment*; *Bankruptcy*; *Carriers*; *Corporations*; *Husband and Wife*; *Landlord and Tenant*; *Master and Servant*; *Municipal Corporations*; *Parent and Child*; *Partnership*; *Public Service Companies*; *Railroads*; *Street Railways*; *Telegraph and Telephone Companies*; *Trade Unions*.

See also *Aliens*; *Animals*; *Conflict of Laws*; *Contributory Negligence*; *Damages*; *Dead Bodies*; *Fires*; *Highways*; *History of the Law*; *Joint Wrongdoers*; *Jurisprudence*; *Proximate Cause*; *Trade Marks and Trade Names*; *War*.

## **Nature of tort liability in general:**

Intentional tort: liability for consequential injury to third person. 409, 427

Liability for fire loss caused by injury to third party's hose. 511, 525

Recovery for mental suffering. 359-365

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- Relation of illegal conduct to recovery in actions of tort. **505**, 525  
 Rights and duties in the law of torts. 10-14
- The right to unimpaired pecuniary condition. 13  
 Violation of tenement house statute requiring fire escapes. 111
- Criminal act:** Effect of violation of statute prohibiting employment of minors in elevators. 433  
 Effect of violation of statute prohibiting sale of firearms to minors. 435
- Interference with business or occupation:** Justification: interpretation of English Trades Disputes Act of 1906. 215  
 — strike to compel discharge of non-union men. 529
- Unusual cases of tort liability:** Employer's right to reimbursement from tortfeasor for compensation paid injured employee under workmen's compensation act. **307**, 333  
 Negligent mutilation of dead bodies. 322
- Suit by wife for causing imprisonment of husband. **511**, 530
- Defenses:** Illegal act of plaintiff: violation of statute against free transportation. 320
- TRADE MARKS AND TRADE NAMES.**  
**Protection apart from statute:** Audible similarity without fraudulent intent. 215  
 Purchase of name by corporation for purposes of unfair competition. 437
- TRADE UNIONS.**  
 See also *Constitutional Law; Deceit.*  
**In general:** Constitutionality of state anti-trust act exempting combinations of labor. 105  
 Rights of members under contract made by union for their benefit. 427  
 Trade union's failure to notify of change in wage scale. 630
- Statutes and interpretation:** Constitutionality of statute forbidding exaction of an agreement not to belong to labor union as condition of employment. **496**, 518  
 "Trade dispute" under English Trades Disputes Act of 1906. 215
- Inducing workmen to leave otherwise than by strike:** Suit to restrain labor union from compelling members not to take employment by threatening fine. **696**, 718
- TREES.**  
 See under *Sales.*
- TRESPASS TO REALTY.**  
 See *Injunctions.*
- TRIAL.**  
 See *Appeal and Error; Constitutional Law; Contempt; Courts; Criminal Law; Evidence; Indictment and Information; New Trial; Writ-nesses.*
- TROVER AND CONVERSION.**  
**What constitutes conversion:** Liability of infant for injury to hired motor-car during intentional deviation. 521
- TRUSTS.**  
 See also *Bankruptcy; Banks and Banking; Constructive Trusts; Rule against Perpetuities; Vested, Contingent, and Future Interests.*  
**Creation and validity:** Bequests, devises, or intestacies secured by oral or unattested promises to apply for others some or all the property so obtained. 251-269  
 Bequest on secret understanding: liability of legatee to transfer tax. 718  
 Direction to trustee to employ a particular person as attorney in administering trust. 530  
 Effect of contracts for joint, mutual, or joint and mutual wills. 246-251  
 Effect of contracts to bequeath or to devise or to die intestate. 241-245  
 Reservation of power to revoke: liability to transfer tax. 334
- Cestui's interest in the res:** Is cestui's interest in rem or in personam? **507**, 530  
 Life tenant's right to actual income from unauthorized investments. 333
- Powers and obligations of trustee:** Investment of trust funds in participating mortgage in trustee's name. 335  
 Liabilities incurred in the course of the administration of trusts. 725-741  
 Personal liability of trustee in the administration of the trust. 725-726  
 Power of court to interfere with discretionary investments. 216  
 Power to charge trust property. 738-740

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- Trustee's right of exoneration out of trust *res.* 730-731  
 Trustee's right to indemnity from *cestui que trust.* 728-730  
 Trustee's right to reimbursement out of trust *res.* 727-728  
**Rights and liabilities of third parties:** Rights of creditors of trustee to reach trustee's right of exoneration out of trust *res.* 731-732  
 Rights of creditors, who have be-

- come such in the course of the administration of the trust, against the *cestui que trust.* 736-737  
 Rights of creditors, who have become such in the course of the administration of the trust, against the trust property. 737-741  
**Resulting trusts:** Distribution among subscribers of a fund raised by subscription: the rule in Clayton's Case. 193, 216

## U

### UNFAIR COMPETITION.

See *Restraint of Trade; Trade Unions.*

### UNIONS.

See *Trade Unions.*

### UNITED STATES.

See *Constitutional Law; Federal Courts.*

### UNJUST ENRICHMENT.

See *Constructive Trusts; Quasi-Contracts.*

### USES.

See *Trusts.*

### USURY.

**Nature and validity of usurious contracts:** Effect of Negotiable Instruments Law on statute making usurious notes void. 424

### Foreclosure of usurious mortgage:

Right of innocent party to the mortgage to recover: New York law. 821

## V

### VENDOR AND PURCHASER.

See also *Fixtures; Restrictions and Restrictive Agreements as to Use of Property; Specific Performance.*

**Remedies of vendor:** Right to sue for deficiency after strict foreclosure. 641

**Remedies of purchaser:** Merger of executory contract of sale by acceptance of deed. 719

### VESTED, CONTINGENT, AND FUTURE INTERESTS.

See also *Legacies and Devises; Life*

*Estates; Rule against Perpetuities.*

Contingent remainders: protection by legislation in Massachusetts. 191

### Future interests in personalty:

Action for damages to chattel, by executory legatee against executor of first holder. 822

### VESTED RIGHTS.

See *Constitutional Law.*

### VOTING.

See *Constitutional Law; Elections; Municipal Corporations.*

## W

### WAR.

See also *International Law.*

Alien enemies: status of, in courts of belligerent. 312, 317

Contraband: illuminating oil and the doctrine of continuous voyage. 188

Prize: capture: rights of neutral mortgagees and shareholders. 217

— capture of vessel transferred to domestic corporation composed of alien enemies. 335

— shipowner's right to freight in trade with the enemy. 720

The English Moratorium. 407

### WAREHOUSEMEN.

**Warehouse receipts:** Liability for fraudulent issuance by agent: effect of Uniform Warehouse Receipts Act. 336

Conclusive evidence. 627

### Uniform Warehouse Receipts Act:

§ 20. 336

§ 58. 336

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## WARRANTY.

In sales of personal property, see under *Sales*.

## WASTE.

Injunction against waste to protect inchoate right of dower.

615, 631

Recovery by life tenant for injury to the inheritance: relation to liability for permissive waste. 637

## WATERS AND WATERCOURSES.

See also *Accretion; Easements; Eminent Domain*.

**Natural watercourses: riparian rights:** Federal control *v.* state control of riparian rights in Supreme Court of the United States.

279-282

Federal ownership of water rights in public domain.

286-291

Federal statutes relating to water rights.

272-274, 292-293

State ownership of running water.

286-290

Whether states succeeded to sovereign jurisdiction of United States over waters in public domain out of which they were created.

291-292

**Natural watercourses: obstruction, pollution, and diversion:**

Liability of highway authorities for interference with natural watercourses.

481-487

Pollution by surface water and sewage.

486-487

**Natural lakes and ponds:** Sale of riparian land with knowledge of proposed user: effect as creating easement.

106

**Surface waters:** Distinction between natural watercourses and surface waters.

480-481

Rights and liabilities of adjoining landowners with respect to surface waters.

489-490

Rights and liabilities of highway authorities with respect to surface waters.

490-494

Statutory compensation for injuries to land from surface waters by location and repair of highways.

493-494

**Appropriation and prescription:**

Federal disposition of state waters in priority states.

270-293

Origin of the priority system.

272-273

The riparian and priority systems of water rights.

271-272

Whether priority system in West-

ern states depends on federal or state sanction.

273-279

**Public rights:** Taking of riparian rights by eminent domain.

484-486, 494

Ways and waters in Massachusetts.

478-495

## WAYS.

See *Highways*.

## WIFE.

See *Divorce; Domicile; Dower; Husband and Wife*.

## WILLS.

Administration under, see *Executors and Administrators*.

See also *Legacies and Devises; Powers; Restrictions and Restrictive Agreements as to Use of Property; Vested, Contingent, and Future Interests*.

**Execution:** Attestation: whether witnesses must attest testator's signature under statute of frauds.

217

**Construction:** Condition for forfeiture in case of contest by legatee.

336

Constructive trusts based on promises made to secure bequests, devises, or intestate succession.

237-269, 366-393

Where the will discloses that legatee or devisee is to hold in trust, but does not disclose the terms.

382-387

**Incorporation by reference:** In general.

238-240

**Alterations and modifications:** Subsequent definition of legacies and devises by non-testamentary acts.

238-240

**Joint wills:** Contracts for joint, mutual, or joint and mutual wills.

246-251

**Mutual wills:** Revocability: probate of later will.

218

## WITNESSES.

See also *Discovery; Evidence; Wills*.

**Competency in general:** Competency of a presiding judge as witness.

115

**Privilege against self-incrimination:** Effect on privilege of an unaccepted pardon.

609, 642

**Privileged communications:** Husband's letters to wife.

823

Physician: waiver by allowing one of several physicians to testify.

116

— waiver by patient's testimony concerning physical condition.

532

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

<b>Examination:</b> Cross-examination to credit: interest of witness in outcome of suit.	822	<b>Sequestration:</b> Disqualification for disobeying sequestration order.	438
<b>Impeachment:</b> Admissibility of involuntary confession to impeach defendant as witness.	428	<b>WORK AND LABOR.</b>	
Party's own witness: by prior contradictory statements.	531	Regulation of, see <i>Constitutional Law; Trade Unions.</i>	
		<b>Workmen's compensation acts:</b>	
		See under <i>Master and Servant.</i>	

## BOOK REVIEWS

	PAGE
American Contributions to Jurisprudence . . . . .	337
ANDERSON: The Criminal Justice Administration Act . . . . .	439
BATY: Polarized Law . . . . .	117
Bender's War Revenue Law . . . . .	538
BEALE: Bartolus on the Conflict of Laws . . . . .	723
BEALE AND WYMAN: Railroad Rate Regulation . . . . .	827
BENNETT: The History and Present Position of the Bill of Lading as a Document of Title to Goods . . . . .	536
BLACK: A Treatise on the Law of Income Taxation . . . . .	831
BOLLAND: Select Bills in Eyre, A.D., 1292-1333 . . . . .	442
BORLAND: The Law of Wills and the Administration of Estates . . . . .	724
BRADBURY: Workmen's Compensation and State Insurance . . . . .	222
BROWN: The Minimum Wage . . . . .	218
CLARK: History of Roman Private Law . . . . .	535
COOLEY: Handbook of the Law of Municipal Corporations . . . . .	116
CORWIN: The Doctrine of Judicial Review . . . . .	340
DARLING: Scintillae Juris and Meditations in the Tea Room. Fourth Edition . . . . .	118
DEAN AND RIMMER: A Digest of the Law and Practice Relating to Local Government in England and Wales . . . . .	118
DEL VECCHIO: The Formal Bases of Law . . . . .	830
DICEY: Introduction to the Study of the Law of the Constitution . . . . .	532
ELIOT: The Juvenile Court and the Community . . . . .	440
FIGGIS: The Divine Right of Kings . . . . .	118
GAROFALO: Criminology . . . . .	221
German Legislation for the Occupied Territories of Belgium . . . . .	645
GLENN: The Rights and Remedies of Creditors Respecting their Debtor's Property . . . . .	720
HALL: Cases on Constitutional Law . . . . .	340
HEALY: The Individual Delinquent . . . . .	721
HEMENWAY: Legal Principles of Public Health Administration . . . . .	723
LEFROY: Leading Cases in Canadian Constitutional Law . . . . .	644
MALLORY: Compiled Statutes of the United States, 1913 . . . . .	443
MONTGOMERY: Manual of Federal Procedure . . . . .	223
Oxford Studies in Social and Legal History; Volume IV . . . . .	220
RAWLE: Bouvier's Law Dictionary. Eighth Edition . . . . .	537
REEDER: The Validity of Rate Regulations . . . . .	825
ROGERS: Good Will, Trade Marks, and Unfair Trading . . . . .	223
SWAIN: Conservation of Water by Storage . . . . .	824
TAFT: The Anti-Trust Act and the Supreme Court . . . . .	642
THORNTON: A Treatise on Attorneys at Law . . . . .	340
TUCKER: Limitations on the Treaty-Making Power under the Constitution of the United States . . . . .	826
TURNER: Year Books of Edward II; Volume VI . . . . .	441
VOORHEES: The Law of Arrest in Civil and Criminal Actions . . . . .	827